



U.S. Department of Justice
UNICOR
Federal Prison Industries, Inc
Office of the Chief of Sales
Office Furniture Business Group

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**COMPARABILITY INFORMATION
ON UNICOR OFFICE FURNITURE PRODUCT
FOR PURPOSES
OF SECTION 811 OF THE
2002 DOD AUTHORIZATION BILL**

The recent DoD Authorization language in Section 811 has been a source of great confusion. This is, in part, due to the tremendous volume of propaganda being circulated by the very large private furniture companies. In an effort to clarify the facts, attached is the directive issued by Ms. Deidre A. Lee, Director, Defense Procurement, on March 4, 2002.

The attached directive from Ms. Lee reflects how it was actually issued. Many of you may have a copy of this directive that has been changed by parties unknown within the private sector. Specifically, additional language was inserted on page two. This language did not come from the Pentagon, but actually indicates that DoD is not required to utilize UNICOR as a mandatory source because of Section 811. You can see on page two of the attachment, there was no such language in the original directive. Ms. Lee's office is aware of this fraud and can verify the accuracy of the attachment contained in this document.

The simple language of the bill and the implementing Interim Rule clearly show that mandatory source *was not abolished*. However, it does require an additional step for all DoD purchases of any product that UNICOR produces as a mandatory source item. Specifically, the new law requires that DoD Contracting Officers must conduct a market study to determine if product offered by UNICOR is comparable to that offered by the private sector. This determination should be based on price, quality, and delivery. This step is required prior to interfacing with any private sector vendor. This is a critical step because the outcome of this determination directs whether DoD is required to purchase from UNICOR or may actually move into the private sector open-market arena. That is, the law specifically holds that if UNICOR product is found to be comparable, then the mandatory source rules apply. Only if the determination indicates that UNICOR does not offer a comparable product is the Contracting Officer allowed

to move into the open market for the requirement. Even then, the law requires that UNICOR be notified and given a fair opportunity to offer.


If a determination of non-comparability is issued, the next step requires the issuance of a solicitation complete with all the specifications of the requirement and evaluation factors. The original Senate version of the bill allowed for the Federal Supply Schedule to suffice as competition. However, this language was specifically removed in conference with the House, and the final law does not allow for this. Therefore, if a solicitation is determined to be appropriate, the Contracting Officer must formally advertise the requirement consistent with the FAR requirements based on the dollar value of the procurement. This is a far more lengthy process, but is the requirement of the new law.

Since the new law requires a two-step process, it is clearly inappropriate to combine the market study with open-market quoting for purposes of making a comparability determination. UNICOR believes that inappropriate contract actions inconsistent with the law are issues that GAO can review. Therefore, UNICOR is taking an aggressive position on challenging contract actions that do not comply with the new law by protesting directly to the GAO. Additionally, since the new law does not change any existing UNICOR statute, the Presidential Review Panel is still the independent reviewer on disputes between UNICOR and the DoD on price, quality, and delivery. UNICOR does not want to disrupt your procurement, but must protect itself. Therefore, it is vitally important for the smooth acquisition process that all DoD Contracting Officers comply with the law fully.

UNICOR offers a wide range of product and is extremely comparable to the private sector in its product offering, as well as its services. It will be a rare occasion when UNICOR will not be comparable. Remember, the law only requires UNICOR to be comparable, not the best available nor the lowest price. Since all UNICOR product is manufactured and tested to exact ANSI/BIFMA standards used in the industry, quality comparability should not even be an issue. The industry standard lead-time ranges from 30-90 days. UNICOR's normal lead-time is 7-45 days after receipt of order (ARO), well within the industry lead-times. The pricing in the attached matrix reflects catalog pricing, and does not include any additional discounts that may be offered on large projects. Since combining the market study with quotes from the private sector is clearly outside the law, UNICOR is providing the attached listing of general product information for your use, to streamline your market-study process and assist you in making your comparability determination.

If you determine that UNICOR is in fact comparable, but you determine that it is in DoD's interest to still use the private sector, you may then request a waiver. Remember, upon a determination of comparability the mandatory source rules apply, so a waiver request would be appropriate. UNICOR historically has approved approximately 9 out of 10 waiver requests. Upon receiving a waiver from UNICOR you are then free to pursue the Federal Supply Schedule vendors the way you always have, because you are operating under the mandatory source rules, not the open-market portion of Section 811. You cannot use the market study inappropriately to "get around UNICOR". If UNICOR is comparable and you want to use the private sector, you must pursue this through the existing waiver processes.

UNICOR is not interested in bogging down your furniture procurement. Rather, UNICOR wants the new process to be as painless as possible. However, the new process must be fair. In making the comparability determination, DoD Contracting Officers must take great care in preserving the integrity of their independent judgments.


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